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FEDERAL COMMUNICATIONS COMMISSION
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To: The Commission

The Commission has adopted rules in the First Report and Order providing for cost-sharing between PCS licensees of microwave relocation expenses. This allows, for example,

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an A Block licensee to agree to relocate paths that impact the B, C, D, E, or F Block paths as part of a "global" relocation agreement with an incumbent, and then seek and obtain reimbursement from the PCS licensees who benefit from the relocation.

In the Further Notice, the Commission proposes that incumbent microwave licensees also be permitted to participate in cost sharing.^{2/} Thus, for example, an incumbent which clears a D Block licensee at its own expense (presumably as a consequence of an agreement with another PCS licensee to relocate other paths) would be entitled to reimbursement from the D Block licensee. Santee Cooper strongly supports this Commission proposal as it will facilitate early system-wide relocations, thus benefiting both incumbents and PCS licensees.

The Santee Cooper microwave system includes a large number of analog microwave paths in PCS frequency Blocks A, B, C and F. Technical, operational, and economic factors require that Santee Cooper relocate and upgrade the entire microwave system to digital equipment as a single project. Integrating digital and analog paths would be difficult, if not impossible, and doing separate system designs for phased upgrades would create operational hurdles and unnecessary costs. A single microwave relocation project also offers certain economies of scale for equipment acquisition,

^{2/} Further Notice at ¶98-99.

engineering, construction and installation that would reduce the total relocation cost for all involved parties.

In some cases, incumbents in such a situation may be able to negotiate a single relocation agreement with one PCS licensee, who will then need to seek reimbursement from the other PCS licensees under the Commission's cost-sharing procedures. However, that may not always be possible, leaving the incumbent, as well as the impacted PCS licensees, in a difficult stalemate. The solution, recognized by the Commission, is to allow the incumbent to clear some of the frequency paths at its own expense, secure in the knowledge that the PCS licensees benefiting from that relocation will be required to reimburse the incumbent for their pro rata share of the expenses.

This is an equitable result as the incumbent would not be replacing those microwave paths now, or anytime soon, were it not for the needs of the PCS licensees to clear incumbents from the band. Each PCS licensee that benefits from such relocation should pay its fair share of the costs, regardless whether the relocation was initially funded by another PCS licensee or by the incumbent itself.

While the Commission appears to support incumbent participation in cost-sharing, it expresses concern in the Further Notice as to "what the incentive would be for an incumbent to minimize costs." That concern can be easily addressed, however, by reliance on prior agreements entered into by the incumbent.

An incumbent seeking cost-sharing will most likely have already entered into an agreement with the A and/or B Block licensees for a partial clearing of its microwave system. The cost-sharing reimbursement sought by the incumbent could therefore be limited (on a per path basis) to the amount received under a prior relocation agreement to relocate other paths that are part of the incumbent's microwave network. Such earlier agreements would have been entered into through arms-length negotiations with a PCS licensee striving to minimize relocation costs, and therefore would provide an appropriate cost-sharing benchmark. There must be an exception to this proposed benchmark, however, for situations in which the incumbent demonstrates that, for reasons beyond its control, the cost of relocating the C-F paths at its own expense were significantly higher than the costs for relocating A-B paths.

In nearly every other respect, the cost-sharing rules can be applied to an incumbent in the same manner as the rules apply to a PCS licensee. The one exception is the depreciation factor contained in the rules, which reduces the amount of reimbursement owed over time to the PCS relocater based on the depreciation of its ten-year license term.^{3/} This factor is intended "to reflect the fact that the initial PCS relocater has received the benefit of being first to market...."^{4/} However, unlike an initial PCS

^{3/} First Report and Order, Appendix A, at A-4.

^{4/} First Report and Order at ¶74.

relocator, a microwave incumbent that relocates voluntarily obviously does not receive any "market" benefit from the relocation. Therefore, there is no basis for depreciating an incumbent's reimbursement under the cost-sharing rules.

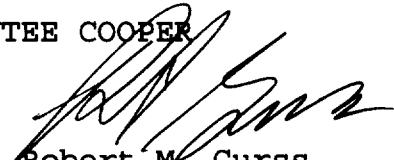
CONCLUSION

Allowing incumbents to participate in cost-sharing will facilitate many more system-wide relocations now, prior to the auctions and licensing for the remaining PCS blocks. The end result will be quicker implementation of PCS, and a far smoother transition process for microwave incumbents. Therefore, for the reasons discussed above, the Commission should adopt rules to permit 2 GHz microwave incumbents to participate in the cost-sharing process.

Respectfully submitted,

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